THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16057 of 2004

18.8.2005

Between:

Kum.Ponnada Kamala D/o.P.Haranadha Rao
Fair Price Shop Dealer Chinna Lankam Village
Burja Mandal, Srikakulam District.

..... PETITIONER

AND

1 The District Collector Srikakulam District, Srikakulam.
2 The Mandal Revenue Officer Burja Mandal, Srikakulam District.

.....RESPONDENTS

ORDER:

The petitioner is a fair price shop dealer of Chinna Lankam village in Burja Mandal of Srikakulam District. By proceedings dated 22.8.2004, the Mandal Revenue Officer, Burja directed the petitioner to pay a sum of Rs.5,70,000/- being thrice the value of the difference between the market price and public distribution system price of commodity supplied to the petitioner for distribution. This order is assailed in the writ petition.

In the counter affidavit, it is brought out by the respondents that the petitioner's authorization was suspended by the Revenue Divisional Officer, Srikakulam for allegedly diverting the rice meant for 'Food for Work' programme and pursuant thereto the District Collector, Srikakulam directed the Mandal Revenue Officer to recover the cost of 40 MTs of rice mis-utilized by the dealer as per Clause 17 of A.P.State Public Distribution System Control Order, 2001 (Control Order, for brevity). The matter is coming up before this Court at the interlocutory stage. However, as the controversy is in a short compass, the matter was heard finally and is being disposed of by this order.

Reliance is placed by the State on Clause 17 (c) of Control Order, which empowers the authority to levy penalty thrice the difference between the market price and the public distribution system price of the commodity, which is allegedly diverted by the fair price shop dealer. Under the provisions of the Control Order, Revenue Divisional Officer is the authority for the purpose of appointment and disciplinary action against fair price shop dealers. The Joint Collector is the appellate authority and the District Collector is constituted as Revisional authority. If orders are passed at the instance of the Revisional authority, the hierarchy of regulating officers would be impeached,

which would certainly infringe the rights of the fair price shop dealers. On this ground, the impugned order is unsustainable and is accordingly set aside.

The writ petition is, accordingly, allowed. It shall, however, be open to the Revenue Divisional Officer having jurisdiction over the matter to pass appropriate orders under Clause 17 of Control Order, after issuing notice to the petitioner. There shall be no order as to costs.

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August 18, 2005. (**V.V.S.RAO,J**)

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